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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,939

07/12/2005

Hideki Matsui

052740

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38834

7590

07/22/2008

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WASHINGTON, DC 20036

EXAMINER

HWANG, VICTOR KENNY

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,939	<b>Applicant(s)</b> MATSUI, HIDEKI	
	<b>Examiner</b> VICTOR K. HWANG	<b>Art Unit</b> 3764	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 23, 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 9, 11 and 12 have been considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's argument that *Tupper* (US Pat. 3,804,083) does not indicate that the tape has a stretchable base material, *Tupper* is cited to teach what is known in the art. It is known to apply to the facial region a system of taping with self-adhesive tape and astringents and other cosmetic treatments so that such wrinkles are pulled flat and alleviated at least temporarily (col. 1, lines 11-14). The new grounds of rejection, wherein *Shintani* (JP 2002-45232 A) is used as a primary reference, provides a stretch tape having a stretchable base material. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Applicant's argument that *Krantz* (US Pat. 5,336,219) discloses a skin closure for closing a surgical incision or wound and discusses nothing about a method of

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beautification and facelifting, *Krantz* teaches that the acrylic adhesive is a non-sensitizing acrylic adhesive that provides a firm, stable adhesion to the skin without causing irritation. The adhesive is applied to a non-woven fabric supported by a polyurethane layer which permit the tape to move with the skin. The stretch tape of *Krantz* comprises the same material used in the stretch tape of *Shintani* and one would naturally look to tapes of similar material to see what adhesives to use to safely and effectively adhere the tape to the skin surface.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Shintani* (JP 2002-045232 A) in view of *Suzuki* (JP 09-143026) and *Tupper* (US Pat. 3,804,083). *Shintani* discloses an apparatus and method for reducing wrinkles, the apparatus comprising a stretch tape that may comprise a stretchable base material 1 of urethane non-woven fabric (paragraph [0006] of English translation) and a sticky adhesive material 2 of acrylic adhesive material (paragraph [0010] of English translation). The stretch tape is applied to the skin surface of a face portion to reduce wrinkles of the face. Portion A of the stretch tape is stuck to the skin surface and then portion B of the stretch tape is stuck on the skin surface to stretch the wrinkles of the skin from outside of the wrinkles.

*Shintani* does not disclose that before sticking the stretch tape to the face portion, a moisturizing and astringing pack is applied to the whole face at bedtime (claim 11), and the stretch tape is removed and the moisturizing and astringing pack is washed away on the next day (claim 11).

*Suzuki* discloses a method of reducing wrinkles comprising applying a wrinkle reducing adhesive tape overnight. Before applying the tape, it is desirable to apply basic cosmetics, such as toiletries and moisturizing lotions (paragraph [0011] of English translation). *Suzuki* does not disclose that the basic cosmetics comprise an astringent.

*Tupper* discloses that a known method for preventing or minimizing wrinkles is to apply self-adhesive tapes, astringents and other cosmetics so that wrinkles are pulled flat and alleviated at least temporarily (col. 1, lines 11-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the stretch tape of *Shintani* at bedtime with a moisturizing and astringing pack and to remove the stretch tape and astringing pack the next day, since *Suzuki* teaches that a wrinkle reducing adhesive tape may be applied overnight and that it is desirable to apply basic cosmetics, such as toiletries and moisturizing lotions before applying the adhesive tape, and since *Tupper* further teaches that it is known to use astringents and other cosmetics when applying a wrinkle reducing stretch tape.

It would have been further obvious to remove the stretch tape the following morning upon awakening and washing the face to remove the moisturizing and astringing pack, since it is a well established morning routine to wash ones face in preparation for daily activities and since *Suzuki* does not teach wearing the tape for an extended time period.

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5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Shintani* (JP 2002-045232 A) in view of *Suzuki* (JP 09-143026) and *Tupper* (US Pat. 3,804,083) as applied to claim 11 above, and further in view of *Krantz* (US Pat. 5,336,219). *Shintani* in view of *Suzuki* and *Tupper* discloses the method as claimed except for the adhesive material applied to the base material at 35 grams per square meter or more. *Shintani*, *Suzuki* and *Tupper* do not disclose the quantity of adhesive to use.

*Krantz* discloses a stretch tape comprising a stretchable base material 20 of non-woven fabric and a sticky adhesive material applied to the base material, the adhesive material comprising a non-sensitizing acrylic copolymer adhesive in an amount of 42 grams/m<sup>2</sup>. The acrylic adhesive is firm and stable and adheres aggressively to skin without causing irritation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stretch tape of *Shintani* in view of *Suzuki* and *Tupper* with acrylic adhesive applied at 35 g/m<sup>2</sup> or more, since *Krantz* teaches that an acrylic adhesive applied at 42 g/m<sup>2</sup> provides a firm, stable aggressive adhesion to the skin without causing irritation.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Muraoka* (JP 10-234469 A) discloses a stretch tape and method for reducing wrinkles.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR K. HWANG whose telephone number is (571) 272-4976. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn H. Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor K. Hwang  
Examiner  
Art Unit 3764

/V. K. H./  
Examiner, Art Unit 3764

/LoAn H. Thanh/  
Supervisory Patent Examiner, Art Unit 3764